

**STATE WATER RESOURCES CONTROL BOARD
BOARD MEETING SESSION – DIVISION OF FINANCIAL ASSISTANCE
DECEMBER 11, 2018**

ITEM 2

SUBJECT

CONSIDERATION OF A PROPOSED RESOLUTION TO APPROVE \$3,564,587 OF PROPOSITION 40 INTEGRATED WATERSHED MANAGEMENT PROGRAM GRANT FUNDS FOR THE ANTELOPE CREEK FISH PASSAGE IMPROVEMENT PROJECT

DISCUSSION

Proposition 40 Integrated Watershed Management Program

In March 2002, California voters passed the California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Act of 2002 (Proposition 40). Approximately \$175 million from Proposition 40 was appropriated to the State Water Resources Control Board (State Water Board) to administer through eight funding programs, including \$47.5 million for the Integrated Watershed Management Program (IWMP). The IWMP is a program for integrated watershed management to improve water quality, protect and restore habitat and fisheries, reduce flooding, control erosion and sedimentation, and improve local water supply reliability through better groundwater monitoring, river corridor recreation, forest land and fuel management, and hydropower management (Pub. Resources Code § 30945).¹

The State Water Board administered the IWMP and five other grant programs as part of the 2005-06 Consolidated Grants Program. In January 2006, the State Water Board adopted the *2005-06 Consolidated Grants Program Guidelines* (Guidelines) establishing the evaluation criteria and the review and selection process for the 2005-06 Consolidated Grants Program. The State Water Board solicited and awarded all the available IWMP funds in accordance with the Guidelines. Due to the bond freeze and projects that were completed under budget or declined the funds, the State Water Board has residual IWMP funds.

IWMP funds may be used to award grants to public agencies and nonprofit organizations for the development of local watershed management plans and for the implementation of watershed protection and water management projects. State Water Board staff identified the need to conduct instream flow studies and implement related eligible watershed projects as a high priority for the IWMP funds. The Guidelines are out of date and the solicitation and selection process is inefficient for allocating residual IWMP funds. Therefore, staff recommends that the State Water Board waive the Guidelines and use a directed-action process to award residual IWMP funds.

Background

Antelope Creek is identified as a priority stream (Group 1) in the State Water Board's *Instream Studies for the Protection of Public Trust Resources: A Prioritized Schedule and Estimated Costs 2010*, based on the presence of: Central Valley spring-run Chinook salmon; Central

¹ In accordance with Pub. Resources Code §30946, a memorandum of understanding was developed between the California Environmental Project Agency and the Resources Agency to coordinate the IWMP with other programs administered by the agencies.

Valley steelhead trout; foothill Yellow-Legged frog; California Red-Legged frog; and Western Pond Turtle. The aquatic habitat of Antelope Creek is relatively unaltered upstream of the Sacramento Valley floor. However, lack of adequate flows connecting the Sacramento River to the upstream habitat of Antelope Creek significantly impacts use by anadromous fish during crucial migratory periods. The lower portion of Antelope Creek splits into a series of braided channels upon entering the Sacramento Valley floor; this complex stream morphology is a significant contributing factor to the lack of adequate flows. Approximately six miles of the Sacramento River receives water from Antelope Creek through this series of braided channels, which branch off the mainstem Antelope Creek and flow directly into the Sacramento River. These channels include: New Creek; Craig Creek; Butler Slough; and Antelope Creek.

Previous funding from the United States Fish and Wildlife (USFWS) Service's Anadromous Fish Restoration Program (AFRP) in the amount of \$294,301, allowed the Tehama County Resource Conservation District (Tehama RCD) to investigate the hydrology, channel hydraulics and morphology, water temperature, and salmonid habitat in the mainstem Antelope Creek and associated channels to identify potential migration barriers along with opportunities for fish passage improvement. Results of the AFRP work suggest that the Craig Creek channel offers the best conditions for salmonid migration. In the February 2011 *Draft Assessment of Hydrology and Geomorphology Related to Fish Passage in Lower Antelope Creek*, published by Stillwater Sciences and the Tehama RCD, the minimum instream flow needed to maintain suitable water depths for successful passage during migration periods was found to be a critical data gap.

Project Status

The Tehama RCD is a public agency that requested Proposition 40 IWMP funding for the Antelope Creek Fish Passage Improvement Project (Project).

On March 19, 2013, the State Water Board adopted [Resolution No. 2013-0006](#) committing up to \$1,000,000 of Proposition 40 IWMP grant funds for the Project. The scope of work at that time included: (1) an instream flow study in the lower Antelope Creek and Craig Creek to determine fish passage flow needs; (2) planning, design, and construction of a structure at the Antelope/Craig Creeks split to ensure adequate flow enters Craig Creek from the mainstem of Antelope Creek; and (3), depending on funding availability, implementation of stream restoration components such as modification or removal of existing barriers, vegetation management, and installation of flow monitoring gauges. However, the implementation of this original scope became infeasible because Tehama RCD was unable to identify a viable funding source to cover the ongoing costs of operations and maintenance, and insurance.

On February 17, 2015, the State Water Board rescinded Resolution 2013-0006 and adopted [Resolution No. 2015-0006](#) that increased funding for the Project from \$1,000,000 to \$1,830,000. The scope of work approved in 2015 included: (1) an instream flow study in the lower Antelope Creek watershed to determine fish passage flow needs; and (2) design and implementation of retrofits to diversions operated by the Edward's Ranch and Los Molinos Mutual Water Company. The retrofit design would combine the two diversions and include a siphon to deliver water to Edward's Ranch. The design would also include a new fish screen and bypass pipe to return juvenile Central Valley spring-run and fall-run Chinook salmon, as well as California Central Valley Steelhead trout, to Antelope Creek, thereby improving the survival rates of juvenile salmonid.

On December 7, 2015, the State Water Board executed Agreement No. D1512701 (Funding Agreement) that provided up to \$1,830,000 in Proposition 40 IWMP grant funds for Tehama RCD's Project. The original design concept proposed to divert fish from Antelope Creek into New Creek. Staff at the California Department of Fish and Wildlife (CDFW) later determined that this was in violation of CDFW regulations.

Per the provisions of the CDFW regulations, all fish that are diverted by diversion dam infrastructure must be returned to the original stream channel from which they originated. This resulted in significant delays in order to redesign the Project and add additional environmental and infrastructure improvements, including: lowering the existing Edward's Dam fish ladder, filling in a large scour pond in front of the New Creek apron and East Ditch head gate, reconfiguring the fish bypass into Antelope Creek instead of New Creek, and modifying the design and capacity of the proposed fish screen and diversion infrastructure to accommodate diversions of up to 90 to 100 cubic feet per second.

Due to these proposed changes, the rising cost of materials, and increased environmental mitigation costs associated with the proposed changes, the total Project costs have significantly increased from \$2,124,301 to \$4,584,627. As a result, Tehama RCD is requesting approval of an additional \$1,734,587 in grant funding, modifications to the scope of work, and a two-year time extension to complete the Project by December 31, 2020.

If the additional funding is approved by the State Water Board, the Project will be allocated a total of \$3,564,587 in Proposition 40 IWMP grant funds. The Tehama RCD has also been awarded \$693,039 in grant funding from the USFWS's Anadromous Fish Screen Program (AFSP) and previously \$294,301 from the AFRP. CDFW is also contributing \$32,700 of in-kind work.

Tehama RCD must expend the AFSP funds by no later than September 30, 2020. If additional funds are not approved, the Tehama RCD will likely forego the AFSP funds, and the Project may not be implemented.

Additional Funding Considerations

Tehama RCD's proposed Project qualifies for Proposition 40 IWMP funds because it provides for native fisheries enhancement and the restoration of other threatened species (Pub. Resources Code § 30947(a)(11)).

In addition, the instream flow study will provide vital information needed to develop minimum instream flow recommendations to improve adult and juvenile salmonid passage in the lower Antelope Creek watershed.

Since both operators hold pre-1914 appropriative water rights, they will not be required to file petitions for change of the points of diversion.

The in-stream flow study and planning/design elements of the Project qualify for a Class 6 [Class 6: Basic data collection, research, experimental management, and resource evaluation activities] categorical exemption from California Environmental Quality Act (CEQA) requirements and will not result in any significant adverse environmental impacts. The Tehama RCD will develop appropriate CEQA documentation for the implementation components of the Project. No implementation activities will be authorized or funded until State Water Board staff have completed the environmental review process and made a determination pursuant to CEQA.

POLICY ISSUE

Should the State Water Board:

1. Approve up to a total of \$3,564,587 in grant funds from the Proposition 40 IWMP for Tehama RCD's Project and authorize the Deputy Director of the Division of Financial Assistance (DFA) to increase this amount up to \$4,000,000 for good cause?
2. Authorize the Deputy Director of DFA to perform all acts and do all things necessary, including but not limited to, approving modifications to the scope of work, budget, schedule and issuing funding agreements and any amendments necessary to implement the Project?
3. Authorize the Deputy Director of DFA to withdraw the grant award if the applicant is non-responsive or DFA has exhausted reasonable efforts to resolve issues that prevent the execution of any necessary amendments to the Funding Agreement?
4. Authorize the Deputy Director of DFA to terminate the grant agreement where there is a violation of a material provision of the Funding Agreement by the recipient?
5. Waive the Guidelines for this Project?
6. Rescind Resolution No. 2015-0006?

FISCAL IMPACT

This Project will be funded with up to \$3,564,587 of Proposition 40 IWMP funds that were not used by projects awarded funds in previous solicitations.

REGIONAL BOARD IMPACT

The implementation portion of the Project may require a water quality certification from the Central Valley Regional Water Quality Control Board.

STAFF RECOMMENDATION

The State Water Board should adopt the proposed Resolution.

State Water Board action on this item will assist the Water Boards in reaching Goal 3 of the Strategic Plan Update 2008-2012 to increase sustainable local water supplies available for meeting existing and future beneficial uses by 1,725,000 acre-feet per year, in excess of 2002 levels, by 2015, and ensure adequate flows for fish and wildlife habitat. In particular, approval of this item will assist in fulfilling Objective 3.3 to ensure that adequate stream flows are available for the protection of fish and wildlife habitat while meeting the need for diversions of water for other uses.